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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,205	02/13/2006	Leo Gustaaf Marien	NL031004US1	6175
24737	7590	03/20/2009	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			RALEIGH, DONALD L	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			2879	
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03/20/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/568,205	MARIEN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	DONALD L. RALEIGH	2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 December 2008.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 and 9 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 and 9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

It has been discovered that the pending Claims 1-6 do not appear to be supported by the applicant's disclosure. Accordingly, the indicated allowability of claims 1-6 is in the action mailed on January 30, 2009 is withdrawn and the prosecution of the instant application is being reopened.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 has been amended by applicant to include the limitation "except that  $d_1/d_2 \neq 1$  ".

This is not supported in applicant's original disclosure and is new matter.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the variation in thickness of the bulb region in relation to the region outside of the bulb area, as claimed

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in claim 1, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5 and 9 are rejected under 35 U.S.C. 102(b) as anticipated by van der Leeuw et al (US Patent No. 5,532,543)(previously cited) or, in the alternative, under 35 U.S.C. 103(a) as obvious over van der Leeuw (543).**

Regarding Claim 1, van der Leeuw discloses, in Figure 2, a high-pressure discharge lamp (Column 1, lines 24-25) comprising: an outer envelope (10) in which a discharge vessel (11) is arranged around a longitudinal axis, the discharge vessel (11) enclosing, in a gastight manner (Column 5, lines 42-45), a discharge space (the inside of 11) provided with an ionizable filling (Column 5, lines 42-45, an inert gas with metal halide is an ionizable filling), the discharge vessel (11) having a first and a second mutually opposed neck-shaped portion (shown better in Figure 3) through which a first and a second current-supply conductor (18)(shown in Figure 2 as feed through), respectively, extend to a pair of electrodes (15) arranged in the discharge space (inside of envelope 11), the outer envelope (10) having a bulb-shaped portion (see Figure 2) adjacent the discharge space, the bulb-shaped portion (of 10) having a wall thickness  $d_1$ , the remainder of the outer envelope (10) having a wall thickness  $d_2$ , wherein the

ratio of  $d_1$  and  $d_2$  is within the range of  $0.35 \leq d_1/d_2 \leq 1.5$ , except that  $d_1/d_2 \neq 1$  (see at least col. 6, line 66 to col. 7, line 11).

Since the bulb shaped portion is adjacent the discharge space which incorporates the entire bulb, if we choose the portion where  $d_1 = .6\text{mm}$  and the portion where  $d_2 = 1\text{ mm}$ , the above equation is satisfied (0.6).

Furthermore,  $d_1/d_2 = 0.35 \leq d_1/d_2 \leq 1.5$  is satisfied for any value of  $d_1$  from  $.6$  to  $1\text{mm}$ .

Also, applicant discloses in the specification page 2, lines 24-25 that the wall thickness of the bulb shaped portion in the known discharge lamp (i.e. prior art) is not uniform suggesting that in some region of the bulb the equation  $0.35 \leq d_1/d_2 \leq 1.5$  is also satisfied for values other than unity.

**Regarding Claim 2**, van der Leeuw discloses the high-pressure discharge lamp wherein the ratio of  $d_1$  and  $d_2$  is in a range of:  $0.4 \leq d_1/d_2 \leq 0.8$ .

Van der Leeuw discloses on page 7, lines 1-3 that the surface thickness of the bulb varies (in the same bulb) from  $0.6$  to  $1\text{mm}$ .

Since the bulb shaped portion is adjacent the discharge space which incorporates the entire bulb, if we choose the portion where  $d_1 = .6\text{mm}$  and the portion where  $d_2 = 1\text{ mm}$ , the above equation is satisfied (0.6).

**Regarding Claim 3**, van der Leeuw discloses a high-pressure discharge lamp (Column 1, lines 24-25) wherein the outer envelope (10) is made from quartz glass, hard glass (Column 5, lines 55-56) or soft glass.

**Regarding Claim 4**, van der Leeuw discloses, in Figure 2, a high-pressure discharge lamp (Column 1, lines 24-25) with a bulb shaped outer envelope (10) but fails to disclose wherein the bulb-shaped portion of the outer envelope (10) is formed in a mold.

In regards to the statement "is formed in a mold", it is noted that the recitation is directed to the method of manufacturing the outer envelope.

In view of an absence of a showing that the method imparts distinctive structural characteristics to the final product, the limitations directed to the method of manufacturing are not germane to the issue of patentability of the device.

**Regarding Claim 5**, van der Leeuw discloses in Figures 2 and 3, a high-pressure discharge lamp wherein the discharge vessel has a quartz wall (Column 5, lines 27-29).

**Regarding Claim 6**, van der Leeuw discloses in Figures 2 and 3, a high-pressure discharge lamp comprising: an outer envelope (10) wherein the ratio of the distance  $d_e$  between the electrodes to the height  $h_{dl}$  of the high- pressure discharge lamp measured along the longitudinal axis lies in a range of:  $0.02 \leq d_e/h_{dl} \leq 0.2$ .

Applicant discloses in the specification (page 4, lines 8-13) that these provide " a lamp highly suitable for use in compact lighting applications".  
Thus the satisfaction of the claimed equation simply involves the determination of the size of the lamp.

van der Leeuw discloses the claimed invention except for the determination of the size required to satisfy the equation  $0.02 \leq d_e/h_{dl} \leq 0.2$ ,

(make the device compact).

It would have been an obvious matter of design choice to provide a lamp with dimensions that satisfy the equation  $0.02 \leq d_e/h_{dl} \leq 0.2$ ,

since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

**Regarding Claim 9**, van der Leeuw discloses in figure 2, high-pressure discharge lamp comprising: an outer envelope (10) in which a discharge vessel (11) is arranged around a longitudinal axis (see figure 2), the discharge vessel (11) enclosing, in a gastight manner (Column 5, lines 42-45), a discharge space (the inside of 11) provided with an ionizable filling (Column 5, lines 42-45, an inert gas with metal halide is an ionizable filling) , the discharge vessel (11) having a first and a second mutually opposed neck-shaped portion (shown better in figure 3) through which a first and a second current-supply conductor (18)(shown in Figure 2 as feed through), respectively, extend to a pair of electrodes (15) arranged in the discharge space (inside of 11), the outer envelope (10) having a bulb-shaped portion (see figure 2) adjacent the discharge space the bulb-shaped portion (of 10) having a wall thickness  $d_1$ , the remainder of the outer envelope having a wall thickness  $d_2$ , wherein the ratio of  $d_1$  and  $d_2$  is in the range of

$$0.4 \leq d_1/d_2 \leq 0.8.$$

Van der Leeuw discloses on page 7, lines 1-3 that the surface thickness of the bulb varies (in the same bulb) from 0.6 to 1mm.

Since the bulb shaped portion is adjacent the discharge space which incorporates the entire bulb, if we choose the portion where  $d_1 = .6\text{mm}$  and the portion where  $d_2 = 1\text{ mm}$ , the above equation is satisfied (0.6).

***Response to Arguments***

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONALD L. RALEIGH whose telephone number is (571)270-3407. The examiner can normally be reached on Monday-Friday 7:30AM to 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter J Macchiarolo/  
Primary Examiner, Art Unit 2879

/Donald L Raleigh/  
Examiner, Art Unit 2879